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Practitioner's Docket No. 10032.00**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re application of: Electrolux Home Products Pty LimitedFor: "Thin Film Heating Element"

the specification of which:

(check and complete (a), (b), or (c))

- (a) ☐ is attached hereto.
- (b) ☒ was filed on 16 March 2001 as Application Serial No. 09/ 787,496 and was amended on _____ (if applicable).
- (c) ☐ was described and claimed in International Application No. _____ filed on _____ and as amended on _____ (if any).

**STATEMENT OF FACTS IN SUPPORT OF FILING
ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. § 1.47)**

NOTE: This statement as to the pertinent facts concerning the refusal of the nonsigning inventor to join in the application or where the omitted inventor cannot be found or reached must accompany the declaration signed on behalf of the omitted inventor by a joint inventor or by a legal representative who shows a proprietary interest. Where the entity with a proprietary interest executes the declaration on behalf of the omitted inventor there must also be a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. 37 C.F.R. §§ 1.47(a) and (b).

This statement is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of the declaration by the nonsigning inventor for the above-identified patent application before deposit thereof in the Patent and Trademark Office.

(check next item, if applicable)

- ☐ Because signing on behalf of the nonsigning inventor is by a person or entity showing a sufficient proprietary interest, this statement also recites facts as to why this action was necessary to preserve the rights of the parties or to prevent irreparable damage.

This statement is being made by the available person having first-hand knowledge of the facts recited therein.

NOTE: The statement "must be signed, where at all possible, by a person having first-hand knowledge of the facts recited therein," M.P.E.P. § 409.03(d), 7th ed. If different persons have first-hand knowledge of different facts, then a declaration from each such person as to those facts he or she knows should be submitted separately.

NOTE: Copies of documentary evidence, such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions. M.P.E.P. § 409.03(d), 7th ed.

IDENTIFICATION OF PERSON MAKING THIS STATEMENT OF FACTS

Name

Paul Le Vavasseyre

Address

21 Anembo Road, Berowra, NSW, 2081, Australia

**EFFORTS DURING CONVENTION YEAR TO PREPARE APPLICATION AND
OBTAIN INVENTOR'S SIGNATURE**

NOTE: *In cases where priority under 35 U.S.C. § 119 is to be claimed, the 37 C.F.R. § 1.47 applicant should explain what efforts, if any, were made during the Convention year to prepare the application and obtain the inventor's signature thereon. The period allowed by the Convention year should "be sufficient for the preparation and deposit of an application . . . in the form required by the rules." . . . Accordingly, 37 C.F.R. § 1.47 may not be used "to save the parties from the consequences of their delay." M.P.E.P. § 409.03(d), 7th ed.*

(use Supplemental Page(s), if necessary)

LAST KNOWN ADDRESS OF THE NONSIGNING INVENTOR

NOTE: *The last known address of the nonsigning inventor must be stated so that the PTO can forward the notice of filing of the application to the nonsigning inventor at said address. (37 C.F.R. § 1.47). A post office box is insufficient. M.P.E.P. § 409.03(a), 6th ed.*

Full name of nonsigning inventor

David M Gehrig

Last known address of nonsigning inventor

39 Garfield Avenue, Bonnet Bay, NSW, 2226, Australia

NOTE: *Ordinarily, the last known address will be the last known residence of the nonsigning inventor, but other addresses at which the nonsigning inventor may be reached should also be given in the space below. M.P.E.P. § 409.03(a), 6th ed.*

DETAILS OF EFFORTS TO REACH NONSIGNING INVENTOR

NOTE: Complete either these facts or the facts as to REFUSAL OF NONSIGNING INVENTOR TO SIGN APPLICATION PAPERS.

NOTE: In addition to a recitation of these efforts, which must have been made before the application was deposited in PTO, copies of documentary evidence such as letters, telegrams, responses, etc. that support a finding that a nonsigning inventor could not be found or reached should, if available, be made part of the declaration. It is important that the affidavit or declaration contain statements of fact as opposed to M.P.E.P. § 409.03(d), 7th ed. conclusions.

1. Application papers forwarded to Mr Gehrig on 3 May 2001 - see attached copy of covering letter.
2. 14 May 2001 - phone call to Mr Gehrig's home. No answer.
3. 17 May 2001 - multiple phone calls to Mr Gehrig's home. Telephone engaged between 7.30pm and 8.30pm.
4. 21 May 2001 - phone call to Mr Gehrig's mobile - no answer. Left message. Message not returned.
5. 28 May 2001 - phone call to Mr Gehrig's mobile - no answer. Left message. Message not returned.
6. 7 June 2001 - phone call to Mr Gehrig's mobile - no answer. Left message. Message not returned.
7. Letter to Halford & Co regarding inability to contact Mr Gehrig.

(use Supplemental Page(s), if necessary)

**DETAILS OF REFUSAL OF NONSIGNING INVENTOR
TO SIGN APPLICATION PAPERS**

NOTE: Complete either these facts or the facts as to **DETAILS OF EFFORTS TO REACH NONSIGNING INVENTOR**.

NOTE: The circumstances of this refusal must be specified by the person to whom the refusal was made and, before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings and declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The time and place of an oral refusal should be stated, or a copy of the written refusal should be attached.

If it is the conduct as a whole of the nonsigning inventor that is the refusal, then all the facts upon which this conclusion is based should be stated and a copy of any documentary evidence supporting these facts should be attached.

Where there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

Whenever the nonsigning inventor gives a reason for refusing to sign the application papers, that reason should be stated. M.P.E.P. § 409.03(d), 7th ed.

(use Supplemental Page(s), if necessary)

**PROOF OF NEED TO PREVENT IRREPARABLE DAMAGE
OR PRESERVE THE RIGHTS OF THE PARTIES**

NOTE: This proof must be presented where the declaration is signed by a person with sufficient proprietary interest for the nonsigning inventor (37 C.F.R. § 1.47(b)), but is not a requirement when the person signing for the nonsigning inventor is a joint inventor. (37 C.F.R. § 1.47(a)).

If a statutory bar is involved, the act or publication which is believed to constitute the bar should be identified. If a claim for priority is involved, the prior application or applications should be identified.

A diligent effort to prepare the application and obtain the inventor's signature thereon must be made, even if the application is being filed to avoid a bar or to claim priority. M.P.E.P. § 409.03(g), 7th ed.

Irreparable damage may be established by showing that a filing date is necessary to (1) avoid a statutory bar or (2) make a claim for priority, which should identify the prior application(s) involved.

Preservation of the rights of the parties may be demonstrated by a showing that the nonsigning inventor may reasonably be expected to enter into competition with the person having a proprietary interest and signing on behalf of the nonsigning inventor or that a firm plan for commercialization of the subject matter of the application has been adopted.

M.P.E.P. § 409.03(g), 7th ed.



*(if this proof is not needed and not being presented,
then draw a line through this page of the form.)*

(use Supplemental Page(s), if necessary)

Date: 18-9-2001



Signature of person making statement

Paul Le Vavasseyre

☐ Plus _____ Added Page(s)